

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, and 476.17, the Utilities Board (Board) gives notice that on November 7, 2014, the Board issued an order in Docket No. RMU-2014-0007, In re: Peak Alert Rules, “Order Commencing Rule Making.” The Board is seeking public comment on the proposed amendment to 199 IAC 20.11.

The Board’s peak alert rules became effective in 1983 and were last amended in 2003. Since 2004, the Board has granted MidAmerican Energy Company (MidAmerican) a series of one- and two-year waivers of the Board’s peak alert rules. In the order granting MidAmerican’s waiver request in Docket No. WRU-2013-0005-0156, the Board noted that it might be appropriate to consider modifying or eliminating the peak alert rules.

On January 23, 2014, the Board initiated a notice of inquiry (NOI) regarding the Board’s peak alert rules. The docket was identified as Docket No. NOI-2014-0002. Various comments were filed in response to that order and to another order issued on April 17, 2014, requesting additional comments. Participants that filed written comments included the Consumer Advocate Division of the Department of Justice (Consumer Advocate), the Environmental Law & Policy Center and the Iowa Environmental Council (ELPC and IEC), MidAmerican, Interstate Power and Light Company (IPL), the Iowa Association of Electric Cooperatives (IAEC), and the Iowa Association of Municipal Utilities (IAMU).

Inquiry participants generally agreed that the Board’s peak alert rules should be revised to reflect changes in the electric industry. IPL and MidAmerican, the state’s two investor-owned electric utilities, recommended that the rules be rescinded because utilities can measurably shed electric load through demand response programs in a reliable and consistent manner. IPL and MidAmerican stated that load shed as a result of peak alert rules is not easily measured. The IAEC was supportive of rescinding the rules or, in the alternative, modifying the rules to allow utilities to voluntarily notify customers of the benefits of reducing demand during peak periods, thus allowing utilities to educate consumers in the manner they deem most appropriate.

Consumer Advocate and ELPC and IEC recommended that the Board retain the rules because they serve an important public purpose alongside energy efficiency programs and can potentially engage customers who do not participate in energy efficiency programs to reduce usage when a peak approaches. The IAMU noted that municipal utilities are not subject to the Board’s peak alert rules pursuant to Iowa Code section 476.1B but filed general comments pertaining to the practices of municipal utilities.

While the load reductions resulting from peak alert notices may be difficult to measure, the Board does not find it appropriate to rescind rules that require utilities to issue energy conservation messages to their customers. The current peak alert rules include minimum notice requirements. Utilities have included the minimum requirements in notices and additional information, such as energy saving tips and assurances to customers that there will not be reliability issues. Peak alerts request that consumers change their actions temporarily, potentially engaging customers who do not participate in energy efficiency programs to make some changes in actions that may become habits. However, the Board is proposing changes to make the rules more flexible to meet the needs of individual utilities.

Subrule 20.11(1), which applies to investor-owned utilities and electric cooperatives, is currently fairly prescriptive in its notice requirements for a peak alert, requiring that the annual written customer notices explain “how growth in demand affects a utility’s investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases.”

This language did not work well for MidAmerican during its extended revenue requirement freeze, thus necessitating multiple waivers. Also, the subrule's implicit message is that conservation may delay the need for new generation facilities, but MidAmerican was continuing to add emission-free wind generation during this period regardless of any energy efficiency or conservation taking place. The Board's proposed changes make the subrule less prescriptive, thus giving utilities an opportunity to tailor the message to fit their specific situations, and also recognize that there are both summer- and winter-peaking electric utilities in Iowa. Examples provided by IPL and MidAmerican in the NOI show that effective peak alert messages can be tailor-made to the utility's individual circumstances and that the prescriptive language in the current rules is not appropriate given changes in the electric industry.

In subrule 20.11(2), the Board proposes to remove the temperature requirements for issuing peak alerts and instead require each investor-owned utility to have on file with the Board a statement indicating the conditions that would prompt the utility to issue a peak alert. Temperature triggers do not always correspond to capacity shortfalls. Rather, peak alerts should be issued consistent with the procedures set by the Midcontinent Independent System Operator, Inc., or another regional transmission organization that a utility might join, or other conditions that the utility might identify as suggestive of an approaching peak demand.

Proposed changes to other subrules would apply only to investor-owned electric utilities. For example, the Board proposes to remove the requirement for each investor-owned utility to provide the projected costs of implementing its notification plan because actual costs are included in the annual peak alert reports. The Board also proposes to remove the requirement for kilowatt hour demand reporting in the annual peak alert reports because other factors impact demand during peak alerts, such as activation of a utility's appliance cycling program or other demand response programs. The proposed amendment also includes a requirement that an investor-owned utility file as part of its annual report the most recent customer notice, actual peak alert notice, and a statement indicating whether the utility will continue to use the same peak alert messages and the same conditions for triggering a peak alert.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before December 30, 2014. The statement should be filed electronically through the Board's Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendment will be held at 10 a.m. on January 28, 2015, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board has a general waiver provision in 199 IAC 1.3 that would be applicable to this amendment.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 476.1, 476.1A, and 476.17.

The following amendment is proposed.

Amend rule 199—20.11(476) as follows:

199—20.11(476) Customer notification of peaks in electric energy demand. Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

20.11(1) Annual notice. Each electric utility shall provide its customers, on an annual basis, with a written notice ~~explaining how growth in demand affects a utility's investment costs and why reduction of customer usage~~ that informs customers of the significance of reductions in consumption of electricity

during periods of peak demand ~~may help delay or reduce the amount of future rate increases.~~ The notice shall include an explanation of the condition(s) under which peak alerts will be issued and the means by which the utility will inform customers that a peak alert is being issued. The notice shall be delivered to its customers between May 1 and June 15 of each year if peak demand is likely to occur during the months of June through September. If peak demand usually occurs during the months of October through February, the notice shall be delivered to its customers between August 1 and September 15 prior to the start of the utility's historical seasonal peak demand.

20.11(2) Notification plan. Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

~~a.~~ The plan shall include, at a minimum, the following:

~~a.~~ A description and explanation of the condition(s) that will prompt a peak alert.

~~(1) b.~~ A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur as prescribed in 20.11(2) "b" and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

~~(2)~~ A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in 20.11(2) "b," and shall explain the criteria used to identify customers to whom notice will be given and when and how notice will be given.

~~(3)~~ A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The board may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.

~~(4) c.~~ The text of the general and direct message or messages to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility or utilities providing the notice, an explanation that conditions exist which indicate a peak in electric demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases an explanation of the significance of reductions in electricity use during a period of peak demand.

~~(5)~~ A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in 20.11(2) "b."

~~(6)~~ A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in 20.11(2) "b" will exist on the same day.

~~b.~~ For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:

~~(1)~~ The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or

~~(2)~~ The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but

~~(3)~~ If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in 20.11(2) "b"(1) or 20.11(2) "b"(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.

20.11(3) Implementation of notification plan. The utility shall implement the approved its notification plan on each day of the year when peak demand is likely to occur, as prescribed by as needed to alleviate the conditions described in 20.11(2) "b a."

20.11(4) *Permissive notices.* The standard for implementing peak alert notification ~~in subrule 20.11(2)~~ is a minimum standard and does not prohibit a utility ~~or association of utilities~~ from issuing a notice requesting customers to reduce usage at any other time.

20.11(5) *Annual report.* Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report ~~stating for the prior year providing the number text of the annual written notice and of the peak alert notices given its customers, the dates when the notices were issued, and the annual cost costs of providing both general and direct notice the annual written notice and the peak alert notices to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued.~~ The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and a ~~proposal to modify~~ modifications of the plan, if necessary, to make customer notification more effective. ~~Modifications must be approved by the board before they are implemented.~~